

**ENTERED**

April 13, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JOSE ALBERTO GUTIERREZ

VS.

LORIE DAVIS

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§

CIVIL ACTION NO. M-18-287

**ORDER ADOPTING REPORT AND RECOMMENDATION**

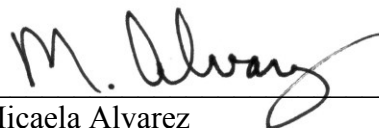
Pending before the Court is Petitioner Jose Alberto Gutierrez's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254, which had been referred to the Magistrate Court for a report and recommendation. On March 9, 2020, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's motion for summary judgment be granted, that Petitioner's § 2254 habeas petition be denied, that Petitioner be denied a certificate of appealability, and that this action be dismissed. Respondent has filed timely objections to the Magistrate Court's Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1)(c), the Court has made a de novo determination of those portions of the report to which objections have been made. As to those portions to which no objections have been made, in accordance with Federal Rule of Civil Procedure 72(b), the Court has reviewed the report for clear error.

Having thus reviewed the record in this case, the parties' filing and the applicable law, the Court adopts the Report and Recommendation in its entirety. Accordingly, it is hereby ORDERED that Respondent's Motion for Summary Judgment is **GRANTED**; thus, Petitioner's Petition for Writ of Habeas Corpus Pursuant to § 2254 is **DENIED**, Petitioner is **DENIED** a certificate of appealability, and this action is **DISMISSED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 13th day of April, 2020.



Micaela Alvarez  
United States District Judge